1949 **File No.** 839/48

A CLASS

T & W. **DEPARTMENT**

& **BRANCH** I & II

Subject:— Appointment.

Govt. servants holding perm. posts on probation to higher posts.

Orders re

A K 1749

File No. 839/48-E I & II

Etd. Scott. Slip. 21 A.

G R., G D., No. 2408, dated 22-5-22.]

Correspondence

DOCKET SHEET (B)

Subject :—

File No. 839/48

P. W. DEPT.

86 I+II BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

Appointment of persons who are already in Government service on probation.

For further orders please see G.G., P. & S.D., No.3868/46 dated 25-5-55 (S-53/96248)

GOVERNMENT OF BOMBAY.
Political and Services Department.
Circular Memorandum No. 3868/46.
Bombay Castle, 31st January 1949.

CIRCULAR MEMORANDUM.

A question has been raised whether a person who is alread in permanent Government service should be required on appointmen on selection by open competition to a higher service or post for which a probationary period is prescribed to surrender his right to a lien on his substantive post and should be treated as a "Probationer" like raw recruits from outside. The matter has been considered carefully and the following decisions have been reached.

(i) A candidate for a higher service or post who is not in permanent Government service may be appointed to the higher service or post on probation subject to the present rules regarding loss of appointment on failure to pass the departmenta examination within a prescribed period and for other causes. Such cases will be regulated according to the general procedure prescribed for the discharge of probationers vide explanation below rule 49 of the Civil Services (Classification, Control and Appeal) Rules and rule 33 of the Bombay Civil Service Conduct, Discipline and Appeal Rules.

(ii) A candidate who is already in permanent Government service should be appointed to officiate in the higher service or post until further orders. The passing of such further orders terminating the appointment (and as a necessary consequence reverting the candidate to his former post) in the event of the candidate's failure to pass the departmental examination within the prescribed period, or if he is otherwise found unsuitable will not attract the provisions of section 240 (3) of the Government of India Act, 1935. The question whether a permanent Government servant on his appointment to a higher

service or post for which a probationary period is prescribed by selection by open competition can be asked to surrender his right to a lien on his previous appointment and treated as a "probationer" like a raw recruit from outside has been considered and it has been held that a person who is confirmed in Government service cannot thereafter be appointed " on probation" as such an appointment is repugnant to the whole scheme of the Civil Service law and to its fundamental principles in that it is calculated to deprive him of his security of tenure. An agreement by which an officer promoted to a higher service or post consents to forfeit his lien on the post Previously held by him and to be appointed on " probation" in the higher post is, so far as it has the effect of depriving him of the security of tenure, open to objection in that it offends against the principle that where a statute confers right on a class of persons in the public interest, no person of that class can contract himself out of that right.

(iii) A candidate of either category will not be eligible to draw increments during the prescribed probationary period if a fixed pay is prescribed for such period and the earning of increments is dependent on the passing of any examinations.

Deleted vide Govt. corrigendum, P.W.D., W-3868/46, Dated 13-2-49

By order of the Governor of Bombay.

M. D. BHAT,
Chief Secretary to the Government of Bombay,
Political and Services Department.

G. C. M. No. 3868/46, P. & S.D., dated the 31st January 1949.

To

R(I) & (II) 2
839/48
34382.

The Private Secretary to the Governor,
The Secretary, Bombay Public Service Commission,
The Accountant General, Bombay,
The Prothonotary, and Senior Master, High Court, Bombay (by letter)
The Registrar, High Court, Appellate Side, Bombay (by letter)
All Heads of Departments under the several Departments of the Secretariat,
The Finance Department.
All other Departments of the Secretariat (except the Separate Department).

No. of 1949.

Copy forwarded for information and guidance to -

Pay during the probationary period.

Government of Bombay.
Political and Services Department.
Circular No. 5346/46.
Bombay Castle, 9th July 1949.

CIRCULAR OF GOVERNMENT.

In a number of cases persons directly recruted to posts or services in respect of which a fixed pay is prescribed during the probationary period are given a higher starting pay in the prescribed scale. No uniform practice, however, seems to have been followed so far in regard to whether or not such persons should be allowed to earn increments during the probationary period. It has now been decided that all persons whether or not they are already in Government service who are appointed by direct recruitment to posts in respect of which a fixed pay is prescribed during the probationary period and who may be given a higher starting pay should be kept on fixed pay during the prescribed probationary period and that they should be allowed to earn increments only after the expiry of the probationary period. All Departments of the Secretariat (except the Separate Department) are requested to make this clear in the forms of requisition they send to the Bombay Public Service Commission for advertising posts in respect of which there is a promise for granting a higher starting pay in the prescribed scale. They are also requested to see that the rule as explained above is invariably observed.

By order of the Governor of Bombay,
M.D.Bhat
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Secretary, Bombay Public Service Commission,
The Accountant General, Bombay,
All Departments of the Secretariat
(except the Separate Department).

No. 839/48-#(I) Public Works Department,

Bombay Castle, 19th August 1949.

Copy forwarded to -

the Electrical Commissioner with the Government of Bombay,

all Superintending Engineers of Circles,

~~the Superintending Engineer for Circles~~

the Public Health Engineer to Government,

the Electrical Engineer to Government,

for information and guidance.

By order of the Governor of Bombay,

Id.
20-8-49 e/c

(K.V.Joglekar),
Deputy Secretary to the Government of Bombay,
Public Works Department.

Issued.

Id.
20-8-49.

Appointment of persons who are
already in Government service
on probation.

GOVERNMENT OF BOMBAY.

Political and Services Department.

Carrigendum No. 3868/46.

Bombay Castle, 13th June 1950.

CORRIGENDUM.

The Government of Bombay is pleased to direct that the last sentence in decision (iii) in Government Circular Memorandum, Political and Services Department, No. 3868/46, dated the 31st January 1949, viz., "This is subject to the provisions of Note 1 below Bombay Civil Services Rule 9 (16) (a)" should be deleted.

By order of the Governor of Bombay,

M. D. BHAT,

Chief Secretary to the Government of Bombay,

Political and Services Department.

To

The Secretary to the Governor,

The Secretary, Bombay ~~Political~~ Public Service Commission,

The Accountant General, Bombay,

The Prothonotary and Senior Master, High Court, Bombay (by letter),

The Registrar, High Court, Appellate Side, Bombay (by letter)

All Heads of Departments and Heads of Offices under the several Departments of the Secretariat,

The Finance Department,

All other Departments of the Secretariat (except the Separate Department).

P. & S.H.28

No. of 1950

Copy forwarded for information and guidance to

39/48/53254.

EB(I).

P. W. D.

Submitted for information.

Id.
6-7-50

Record.

(Thro: E. B. II and Cashier).

Id.
9-7-50

Administrative Enquiry Committee's Report: Recommendations made in paragraphs 349-350 of the -. Government orders on -.

Government of Bombay.
Political and Services Department.
Resolution No. 3063/46.
Bombay Castle, 13th April 1949.

RESOLUTION OF GOVERNMENT.

In paragraphs 349-350 of its report, the Administrative Enquiry Committee has recommended that shortages of staff should be met by (1) recruiting persons with minimum qualifications and training them, (2) relaxation of age limit, and (3) recruitment of persons who have gained experience in private employment, and that an officer should be paid the minimum of the time scale during probation. Government has carefully considered these recommendations and is pleased to direct that they should be accepted. The Secretariat Departments should take necessary action accordingly so far as they are respectively concerned.

By order of the Governor of Bombay,

M. D. BHAT.
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

All Departments of the Secretariat.

Pay during the Probationary period: Fixation of -.

Government of Bombay.
Finance Department.
Circular Memorandum No.7513/33.
Bombay Castle, 27th January 1951.

(P.T.O.)

It has been suggested that probably the orders in Government Resolution, Political and Services Department No.3063/46, dated 13th April 1949, has not been interpreted uniformally by all Departments. In certain Provincial Services, a fixed pay, which is less than the minimum of the time-scale, is prescribed for direct recruits who are appointed on probation. In individual cases however, a starting pay higher than the minimum of the time-scale is given under general or special orders of Government. The Secretariat Departments are requested to report to this Department whether there are cases in which direct recruits appointed on probation to service posts have been given the minimum of the applicable time-scale of pay on the authority of the above orders, without prior consultation with Finance Department.

By order of the Government of Bombay,
Sd/-
Deputy Secretary to the Government
of Bombay, Finance Department.

To

All Departments of the Secretariat.

No.839/48-E(II). Public Works Department,
Bombay Castle (Bombay No. 1.),
22nd February 1951.

Copies forwarded to -

the Chief Engineer, Bombay/Electric Grid.
the Superintending Engineers of Circles,
the Public Health Engineer to Government,
the Electrical Engineer to Government,
the Architect to Government,

for early remarks.

By order of the Governor of Bombay,
Id.
24-2-51 o/c

(D. N. Darwala,)
Assistant Secretary to the Government
of Bombay, Public Works Department.

Copies forwarded to the Executive Engineers of Divisions, for information.

H.J.Patel
11-7-56